

Application No. 09/910,190 (60019660-0018)
Amendment dated: December 5, 2006
Reply to Final Office Action of October 4, 2006

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REMARKS

No claims are amended herein. Claims 1-6 and 14-94 remain pending.

Claims 1-6, 73-75 and 85-94 - Section 103

Applicant respectfully requests reconsideration of the rejection of claims 1-6, 73-75 and 85-94 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,772,575 (Lavin) in view of U.S. Patent No. 6,263,330 (Bessette) and further in view of U.S. Patent No. 6,523,009 (Wilkins).

Claims 1-6, 73-75 and 85-94 recite *inter alia* an automated, patient-controlled, medical and biographical records system comprising: a central computer connected to a global computer network; a centralized medical and biographical records database maintained at the central computer, said database including medical and biographical records for a plurality of individual patients, **access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients**, said central computer executing a security program limiting access to the records to the patients and to health care professionals selectively authorized **by the patients; . . . patient computers . . . each executing a software program interface for patients to input medical history and biographical information** into the patient medical and biographical records database and **to authorize health care professionals to access at least a portion of the records** of the authorizing patients; . . . health care computers . . . each executing a software program interface for the authorized health care professionals to access the medical history and biographical information from the patient medical and biographical records database and to input additional patient medical history and biographical information into the patient medical and biographical records database.

Lavin discloses a system and method for medical personnel to access patient medical information. Lavin does not disclose a system used by patients. Rather, the system is exclusively described as being used by medical personnel. Lavin does not disclose a database in which access to each record in the database is controlled by the Individual patient. Further, Lavin does not disclose or suggest a

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central computer executing a security program limiting access to records to patients and health care professionals selectively authorized by the patients. Still further, Lavin does not disclose or suggest patient computers executing a program for patients to input information and to authorize health care professionals to access at least some of their records. Thus, Lavin fails to disclose or suggest every feature recited in the claims.

Bessette discloses a system for storing medical records in which a portion of the patient information is stored on a portable storage media. Bessette does not suggest that the patient stores the information on the portable media. Like Lavin, Bessette does not disclose a system used by patients. The Bessette system is exclusively described as being used by medical personnel. In addition, Bessette does not disclose or suggest a central computer executing a security program limiting access to records to patients and health care professionals selectively authorized by the patients or a database in which access to each record in the database is controlled by the individual patient or patient computers executing a program for patients to input information and to authorize health care professionals to access at least some of their records.

Wilkins discloses an individualized patient medical records system providing unlimited patient access to his medical records. However, like the other two cited references, Wilkins does not disclose or suggest a central computer executing a security program limiting access to records to patients and health care professionals selectively authorized by the patients or a database in which access to each record in the database is controlled by the individual patient or patient computers executing a program for patients to input information and to authorize health care professionals to access at least some of their records. None of the references discloses or suggests these elements. Further, the combination of references also fails to disclose or suggest these elements. For this reason, the Section 103 rejection is improper and should be withdrawn.

Moreover, the explanation of motivation offered in the Office action for combining the references is both insufficient and developed through hindsight. No

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motivation is offered for combining Bessette with Lavin. Thus, the explanation of motivation incomplete.

Combining Wilkins with the combination of Lavin and Bessette is said to be motivated by a desire to allow access to each record in the database to be controlled by the individual patient corresponding to the record as taught by Wilkins. However, Wilkins does not teach that patient control is desirable in large medical databases such as described in Lavin and Bessette. Such a teaching would be needed as motivation for combining Wilkins with the other two references. Rather than providing legitimate motivation, unrelated disclosures are pieced together to show some of the claim elements are found in the prior art. Clearly, hindsight is used and no motivation is provided for combining the references. Accordingly, the Section 103 rejection is improper and should be withdrawn.

Claims 14-48 and 76-78 - Section 103

Applicant respectfully requests reconsideration of the rejection of claims 14-48 and 76-78 under 35 U.S.C. § 103(a) as being unpatentable over Lavin in view of Bessette and further in view of Wilkins.

Claims 14-48 and 76-78 recite a method for entering and retrieving patient medical and biographical record information comprising the steps of: maintaining medical, biographical, and security information for a plurality of individual patient records in a medical and biographical records database on a centralized computer; inputting patient medical and biographical information in the . . . database through a computer remotely situated from the centralized computer; inputting patient medical and biographical records security information in the . . . database through the computer remotely situated from the centralized computer; **executing a security program limiting access to the . . . database to the individual patients** Inputting medical and biographical information into their own records and to health care professionals selectively authorized by the patients to input additional medical and biographical information to the patients' records; and **executing a security program limiting access to the . . . database to the individual patients** retrieving

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medical and biographical information from their own records and to the health care professionals selectively authorized by the patients.

As discussed above, none of the cited references discloses or suggests a method including the steps of executing a security program limiting access to the database to patients inputting medical and biographical information into their own records and health care professionals selectively authorized by the patients to input additional medical and biographical information to the patients' records or executing a security program limiting access to the database to the individual patients retrieving information from their own records and to the health care professionals selectively authorized by the patients. Because none of the references discloses or suggests these elements, the Section 103 rejection is improper and should be withdrawn.

As further discussed above, the Office action provides no motivation for combining the first two references and provides insufficient motivation for combining the third reference with the other two. Because the motivation is insufficiently articulated, a *prima facie* case has not been made. Therefore, the Section 103 rejection is improper and should be withdrawn.

Applicant respectfully requests reconsideration of the rejection of claims 14-48 under 35 U.S.C. § 103(a) as being unpatentable over Lavin in view of Bessette or as being unpatentable over Lavin in view of Bessette and further in view of U.S. Patent No. 6,849,045 (Illiff) as stated in the rejection in the last paragraph of page 13 of the Office action. These claims are patentable for the reasons stated in the prior response, which are hereby incorporated by reference.

Claims 49-67 and 79-81 - Section 103

Applicant respectfully requests reconsideration of the rejection of claims 49-67 and 79-81 under 35 U.S.C. § 103(a) as being unpatentable over Lavin in view of Bessette and further in view of Wilkins.

Claims 49-67 and 78-81 recite an automated medical diagnosis method comprising the following steps: creating a plurality of diagnostic questions relating to medical signs and symptoms . . . ; storing said diagnostic questions on a central

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computer connected to a global computer network; **differentially weighting the diagnostic questions and responses according to their relative importance in determining a medical diagnosis**; providing a software program interface accessible by computers situated remotely from the central computer, said interface interactively displaying to patients a series of the diagnostic questions stored on the central computer; retrieving patient responses to the diagnostic questions and correlating the patient responses to a list of potential diagnoses as a function of the input responses to the medical diagnostic questions and the relative weight of the medical diagnostic questions; and **storing the list of potential medical diagnoses to a medical and biographical records database via the computer network including a security program limiting access to the medical and biographical records database to the individual patient to whom the diagnosis relates and to health care professionals selectively authorized by the patient to access the records.**

None of the cited references discloses or suggests an automated medical diagnosis method comprising differentially weighting the diagnostic questions and responses according to their relative importance in determining a medical diagnosis or storing the list of potential medical diagnoses to a medical and biographical records database via the computer network including a security program limiting access to the medical and biographical records database to the individual patient to whom the diagnosis relates and to health care professionals selectively authorized by the patient to access the records. Further, there is no motivation for modifying the cited references to suggest these elements. Because the references taken alone or in combination fail to disclose or suggest these elements, the Section 103 rejection is improper and should be withdrawn.

In addition, the Office action fails to provide motivation for combining the first two references and provides insufficient motivation for combining the third reference with the other two as discussed above. Because the motivation is insufficiently articulated, a *prima facie* case has not been made. Therefore, the Section 103 rejection is improper and should be withdrawn.

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Claims 68-72 and 82-84 - Section 103

Applicant respectfully requests reconsideration of the rejection of claims 68-72 and 82-84 under 35 U.S.C. § 103(a) as being unpatentable over Lavin in view of Bessette and further in view of Wilkins.

Claims 68-72 and 82-84 recite a health care finance and insurance method comprising: maintaining medical, biographical, diagnostic, and treatment records for a plurality of individual patients in a medical and biographical records database on a centralized computer; **restricting access to each of said medical, biographical, diagnostic and treatment records in the database to the patients to whom the records relate and to individuals and institutions selectively authorized by the patients; maintaining insurance services wherein the services are selected from the group consisting of terms of insurance contracts, explanation of benefits and services, pre-approval of patient services, pre-approval of treatment, approval of treatment, verification of eligibility for medical treatment, verification of treatment, and automated payment of medical treatment; comparing the patient diagnosis and prescribed services or treatment records with approved therapeutic treatment for the identified diagnosis; and approving or disapproving payment for the prescribed services or treatment.**

None of the cited references discloses or suggests a health care finance and insurance method comprising restricting access to each of said medical, biographical, diagnostic and treatment records in the database to the patients to whom the records relate and to individuals and institutions selectively authorized by the patients; maintaining insurance services wherein the services are selected from the group consisting of terms of insurance contracts, explanation of benefits and services, pre-approval of patient services, pre-approval of treatment, approval of treatment, verification of eligibility for medical treatment, verification of treatment, and automated payment of medical treatment, or comparing the patient diagnosis and prescribed services or treatment records with approved therapeutic treatment for the identified diagnosis, or approving or disapproving payment for the prescribed services or treatment. Further, there is no motivation for modifying the cited references to suggest

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these elements. Because the references taken alone or in combination fail to disclose or suggest these elements, the Section 103 rejection is improper and should be withdrawn.

In addition, the Office action fails to provide motivation for combining the first two references and provides insufficient motivation for combining the third reference with the other two as discussed above. Because the motivation is not provided in the Office action, a *prima facie* case has not been made. Therefore, for this additional reason the Section 103 rejection is improper and should be withdrawn.

Unsubstantiated Rejection of Claims 2-6, 50-67 and 69-72

Applicant requests reconsideration of the rejections of claims 2-6, 50-67 and 69-72 under 35 U.S.C. § 103(a) as stated in the rejection in the last paragraph of page 13 of the Office action. The Office action erroneously states that these claims were not amended in the prior response and therefore are rejected for the same reasons given in the prior Office action. However, each of these claims is dependent on independent claims 1, 49 or 68, and each of these independent claims was amended in the prior response. Therefore, the scope of each of the rejected claims has changed and the rejection is no longer valid. The claims are patentable for the reasons stated in the prior response, which are hereby incorporated by reference, as well as for the corresponding reasons provided above. If these rejections are maintained, the Office must do so in a subsequent Office action and provide Applicant with a statutory period for response.

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Conclusion

As it is believed the application is in condition for allowance, a favorable action and Notice of Allowance are requested. The Commissioner is hereby authorized to charge any applicable fees from Deposit Account No. 19-3140.

If the Examiner desires, Applicants welcome a telephone interview to expedite prosecution and its representative may be reached at the telephone number provided below.

Respectfully submitted,
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